

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES HAYDEN,

Plaintiff,

V.

2K GAMES, INC., et al.,

Defendants.

CASE NO. 1:17-cv-02635-CAB

JUDGE CHRISTOPHER A. BOYKO

JOINT PRELIMINARY STATEMENT

Plaintiff James Hayden (“Mr. Hayden”) and Defendants 2K Games, Inc. and Take-Two Interactive Software, Inc. (collectively, “Take-Two”) submit the following joint preliminary statement impartially describing the case for the Court to use during *voir dire* or when the jury is empaneled, pursuant to Judge Boyko’s standing Trial Order (¶ 4).

Joint Preliminary Statement

Plaintiff James Hayden has inked tattoos on three NBA players relevant to this case: Danny Green, LeBron James, and Tristan Thompson. Mr. Green, Mr. James, and Mr. Thompson have been playing professional basketball for the NBA since 2009, 2003, and 2011, respectively. Between 2007 and 2012, Mr. Hayden inked a number of tattoos on these players, six of which are at issue in this lawsuit. These works may be referred to as the “Asserted Tattoos.”

Defendants, 2K Games, Inc. and Take-Two Interactive Software, Inc., which may be referred to collectively as “Take-Two,” are related video game companies that produce and sell a series of basketball video games under the brand, “NBA 2K.” The NBA 2K video games

simulate NBA basketball games, including realistic depictions of the three NBA players Plaintiff inked with the Asserted Tattoos.

Mr. Hayden has accused six NBA 2K games of infringing his copyrights (NBA 2K16, NBA 2K17, NBA 2K18, NBA 2K19, NBA 2K20, and NBA 2K Mobile) by including the Asserted Tattoos. Take-Two denies Mr. Hayden's claims, and contends that its use of the Asserted Tattoos was authorized and permitted by certain legal defenses. Plaintiff disputes Take-Two's defenses.

DATED: August 1, 2022

/s/ Dale M. Cendali

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CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2022, a copy of the foregoing was filed electronically. Notice of this filing was sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt, and parties may access this filing through the Court's system.

/s/ Andrew W. Alexander

One of the attorneys for Plaintiff